



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2634

Introduced 2/21/2013, by Rep. Maria Antonia Berrios

#### SYNOPSIS AS INTRODUCED:

10 ILCS 5/18A-15

Amends the Election Code. Provides that, if a registered voter cast a provisional ballot only because of a change of address, the county clerk or board of election commissioners, as the case may be, shall find that the provisional ballot is valid unless the county clerk or board of election commissioners has grounds to believe the affidavit is false. Provides that the affidavit filed with the provisional ballot shall serve as a change of address request by that voter for registration purposes for the next ensuing election.

LRB098 09257 HLH 39396 b

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing Section  
5 18A-15 as follows:

6 (10 ILCS 5/18A-15)

7 Sec. 18A-15. Validating and counting provisional ballots.

8 (a) The county clerk or board of election commissioners  
9 shall complete the validation and counting of provisional  
10 ballots within 14 calendar days of the day of the election. The  
11 county clerk or board of election commissioners shall have 7  
12 calendar days from the completion of the validation and  
13 counting of provisional ballots to conduct its final canvass.  
14 The State Board of Elections shall complete within 31 calendar  
15 days of the election or sooner if all the returns are received,  
16 its final canvass of the vote for all public offices.

17 (b) Except as provided in subsection (i), if ~~if~~ a county  
18 clerk or board of election commissioners determines that all of  
19 the following apply, then a provisional ballot is valid and  
20 shall be counted as a vote:

21 (1) the provisional voter cast the provisional ballot  
22 in the correct precinct based on the address provided by  
23 the provisional voter. The provisional voter's affidavit

1 shall serve as a change of address request by that voter  
2 for registration purposes for the next ensuing election if  
3 it bears an address different from that in the records of  
4 the election authority;

5 (2) the affidavit executed by the provisional voter  
6 pursuant to subsection (b) (2) of Section 18A-5 contains, at  
7 a minimum, the provisional voter's first and last name,  
8 house number and street name, and signature or mark;

9 (3) the provisional voter is a registered voter based  
10 on information available to the county clerk or board of  
11 election commissioners provided by or obtained from any of  
12 the following:

13 i. the provisional voter;

14 ii. an election judge;

15 iii. the statewide voter registration database  
16 maintained by the State Board of Elections;

17 iv. the records of the county clerk or board of  
18 election commissioners' database; or

19 v. the records of the Secretary of State; and

20 (4) for a provisional ballot cast under item (6) of  
21 subsection (a) of Section 18A-5, the voter did not vote by  
22 absentee ballot in the election at which the provisional  
23 ballot was cast.

24 (c) With respect to subsection (b) (3) of this Section, the  
25 county clerk or board of election commissioners shall  
26 investigate and record whether or not the specified information

1 is available from each of the 5 identified sources. If the  
2 information is available from one or more of the identified  
3 sources, then the county clerk or board of election  
4 commissioners shall seek to obtain the information from each of  
5 those sources until satisfied, with information from at least  
6 one of those sources, that the provisional voter is registered  
7 and entitled to vote. The county clerk or board of election  
8 commissioners shall use any information it obtains as the basis  
9 for determining the voter registration status of the  
10 provisional voter. If a conflict exists among the information  
11 available to the county clerk or board of election  
12 commissioners as to the registration status of the provisional  
13 voter, then the county clerk or board of election commissioners  
14 shall make a determination based on the totality of the  
15 circumstances. In a case where the above information equally  
16 supports or opposes the registration status of the voter, the  
17 county clerk or board of election commissioners shall decide in  
18 favor of the provisional voter as being duly registered to  
19 vote. If the statewide voter registration database maintained  
20 by the State Board of Elections indicates that the provisional  
21 voter is registered to vote, but the county clerk's or board of  
22 election commissioners' voter registration database indicates  
23 that the provisional voter is not registered to vote, then the  
24 information found in the statewide voter registration database  
25 shall control the matter and the provisional voter shall be  
26 deemed to be registered to vote. If the records of the county

1 clerk or board of election commissioners indicates that the  
2 provisional voter is registered to vote, but the statewide  
3 voter registration database maintained by the State Board of  
4 Elections indicates that the provisional voter is not  
5 registered to vote, then the information found in the records  
6 of the county clerk or board of election commissioners shall  
7 control the matter and the provisional voter shall be deemed to  
8 be registered to vote. If the provisional voter's signature on  
9 his or her provisional ballot request varies from the signature  
10 on an otherwise valid registration application solely because  
11 of the substitution of initials for the first or middle name,  
12 the election authority may not reject the provisional ballot.

13 (d) In validating the registration status of a person  
14 casting a provisional ballot, the county clerk or board of  
15 election commissioners shall not require a provisional voter to  
16 complete any form other than the affidavit executed by the  
17 provisional voter under subsection (b) (2) of Section 18A-5. In  
18 addition, the county clerk or board of election commissioners  
19 shall not require all provisional voters or any particular  
20 class or group of provisional voters to appear personally  
21 before the county clerk or board of election commissioners or  
22 as a matter of policy require provisional voters to submit  
23 additional information to verify or otherwise support the  
24 information already submitted by the provisional voter. The  
25 provisional voter may, within 2 calendar days after the  
26 election, submit additional information to the county clerk or

1 board of election commissioners. This information must be  
2 received by the county clerk or board of election commissioners  
3 within the 2-calendar-day period.

4 (e) If the county clerk or board of election commissioners  
5 determines that subsection (b) (1), (b) (2), or (b) (3) does not  
6 apply, then the provisional ballot is not valid and may not be  
7 counted. The provisional ballot envelope containing the ballot  
8 cast by the provisional voter may not be opened. The county  
9 clerk or board of election commissioners shall write on the  
10 provisional ballot envelope the following: "Provisional ballot  
11 determined invalid."

12 (f) If the county clerk or board of election commissioners  
13 determines that a provisional ballot is valid under this  
14 Section, then the provisional ballot envelope shall be opened.  
15 The outside of each provisional ballot envelope shall also be  
16 marked to identify the precinct and the date of the election.

17 (g) Provisional ballots determined to be valid shall be  
18 counted at the election authority's central ballot counting  
19 location and shall not be counted in precincts. The provisional  
20 ballots determined to be valid shall be added to the vote  
21 totals for the precincts from which they were cast in the order  
22 in which the ballots were opened. The validation and counting  
23 of provisional ballots shall be subject to the provisions of  
24 this Code that apply to pollwatchers. If the provisional  
25 ballots are a ballot of a punch card voting system, then the  
26 provisional ballot shall be counted in a manner consistent with

1 Article 24A. If the provisional ballots are a ballot of optical  
2 scan or other type of approved electronic voting system, then  
3 the provisional ballots shall be counted in a manner consistent  
4 with Article 24B.

5 (h) As soon as the ballots have been counted, the election  
6 judges or election officials shall, in the presence of the  
7 county clerk or board of election commissioners, place each of  
8 the following items in a separate envelope or bag: (1) all  
9 provisional ballots, voted or spoiled; (2) all provisional  
10 ballot envelopes of provisional ballots voted or spoiled; and  
11 (3) all executed affidavits of the provisional ballots voted or  
12 spoiled. All provisional ballot envelopes for provisional  
13 voters who have been determined not to be registered to vote  
14 shall remain sealed. The county clerk or board of election  
15 commissioners shall treat the provisional ballot envelope  
16 containing the written affidavit as a voter registration  
17 application for that person for the next election and process  
18 that application. The election judges or election officials  
19 shall then securely seal each envelope or bag, initial the  
20 envelope or bag, and plainly mark on the outside of the  
21 envelope or bag in ink the precinct in which the provisional  
22 ballots were cast. The election judges or election officials  
23 shall then place each sealed envelope or bag into a box, secure  
24 and seal it in the same manner as described in item (6) of  
25 subsection (b) of Section 18A-5. Each election judge or  
26 election official shall take and subscribe an oath before the

1 county clerk or board of election commissioners that the  
2 election judge or election official securely kept the ballots  
3 and papers in the box, did not permit any person to open the  
4 box or otherwise touch or tamper with the ballots and papers in  
5 the box, and has no knowledge of any other person opening the  
6 box. For purposes of this Section, the term "election official"  
7 means the county clerk, a member of the board of election  
8 commissioners, as the case may be, and their respective  
9 employees.

10 (i) If the county clerk or board of election commissioners,  
11 as the case may be, determines that a registered voter was  
12 entitled to cast a provisional ballot under paragraph (1) of  
13 subsection (a) of Section 18A-5 only because of the provisional  
14 voter's change of address, and that the provisional voter cast  
15 the provisional ballot in the correct precinct based on the  
16 address provided by the provisional voter, the county clerk or  
17 board of election commissioners, as the case may be, shall find  
18 that the provisional ballot is valid unless the county clerk or  
19 board of election commissioners has grounds to believe the  
20 affidavit is false. The provisional voter's affidavit shall  
21 serve as a change of address request by that voter for  
22 registration purposes for the next ensuing election.

23 (Source: P.A. 97-766, eff. 7-6-12.)